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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,718	03/01/2002	Kishan Khemani	16096.6	7476
22913	7590	02/15/2005	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			RAJGURU, UMAKANT K	
			ART UNIT	PAPER NUMBER
			1711	
DATE MAILED: 02/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/087,718

Applicant(s)

KHEMANI ET AL.

Examiner

Umakant K. Rajguru

Art Unit

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. An <sup>appeal</sup>~~applied~~ brief has been filed on Oct. 21, 2004.
2. Claims under examination are 1-38.
3. All previous pending rejections of these claims are hereby withdrawn. Following new rejection is set forth.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Schiffer et al (US 2002/0098341).

Schiffer describes a biodegradable breathable film and a laminate. Film is formed by mixing a biodegradable polymer with a particulate filler, forming a film therefrom and stretching the film to cause voids around the filler particles (abstract). Filler may be inorganic or organic [0027], [0028]. Filler particles are used at 5-80% by wt (p. 6, claim 10).

Claims 1-5 therefore lack novelty.

6. Claims 1-5 & 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Wu et al (WO 02/42365).

Wu describes breathable biodegradable film comprising a biodegradable thermoplastic polymer having dispersed inorganic filler particles. Filler particles are used at 25% to 60% by Wt (p. 8, lines 12-13). Film is 0.25 to 10 mils in thickness (p.24 claim 7) and has moisture vapor transmission rate of 2000 to 4500 grams per sq water per day (p. 24, claim 9).

Claims 1-5 and 9-15 therefore lack novelty.

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7. Claims 1, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiffer et al (US 2002/0098341) or Wu et al (WO 02/42365).

Disclosure of Schiffer is set forth earlier. It is silent about claimed dead fold limitations.

Since the composition of Schiffer reads on the instantly claimed one, it is reasonable and obvious that composition of Schiffer satisfies the limitations of dead-fold.

Similar is the case with disclosure of Wu.

It would have been obvious to follow teachings of either reference and arrive at claimed invention.

8. Claims 16-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al (WO 02/42365).

Wu also discloses extruding a web of molten composition through a coding zone into a nip of rollers (see p. 25, claim 11), introducing a fibrous web into nip of rollers to form a laminated film (see page 26, claim 13). Wu also teaches using stiff polymers and soft polymers (that are instantly claimed).

Wu is silent about claimed dead-fold and protrusion of some filler particles.

Composition of Wu reads on the claimed one. Hence it is reasonable to assume that limitations of dead-fold are satisfied by Wu's composition.

Further depending on when the thickness of film is smaller than diameter of filler particles, some portion of filler particles is bound to protrude from surface of film.

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Hence it would have been obvious to follow teachings of Wu and arrive at claimed invention.

*MR* 9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Umakant K Rajguru whose telephone number is 571-272-1077. The examiner can normally be reached on Monday thru Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-9306. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*MR*  
Rajguru/LR  
January 13, 2005

*James J. Seidleck*  
James J. Seidleck  
Supervisory Patent Examiner  
Technology Center 1700